



**CITY OF LODI
COUNCIL COMMUNICATION**

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AGENDA TITLE: Consider Introducing Ordinance Amending Lodi Municipal Code Chapter 3.20 – Purchasing System by Adding Section 3.20.106 "Local Hire Policy and Apprenticeship"

MEETING DATE: February 1, 2012

PREPARED BY: City Attorney's Office

RECOMMENDED ACTION: Consider Introducing Ordinance Amending Lodi Municipal Code Chapter 3.20 – Purchasing System by adding Section 3.20.106 "Local Hire Policy and Apprenticeship."

BACKGROUND INFORMATION: On January 19, 2011, Council directed staff to return with a draft local hire ordinance following the San Joaquin County model after seeking input from contractors who have done business with the City of Lodi. Staff forwarded the attached draft in October 2011 and only received the one attached positive response.

The ordinance requires contractors to make a good faith effort to hire local labor on projects over \$200,000 and submit a declaration outlining their efforts to ~~so~~ hire. Good faith efforts include posting vacancies with the State Employment Development Department, advertising at Worknet, providing local job fairs, conducting local interviews, and local advertising.

Accordingly, staff recommends that the City Council consider introducing the attached Ordinance entitled "Local Hire Policy and Apprenticeship."

FISCAL IMPACT: Not applicable.

FUNDING AVAILABLE: Not applicable

A blue ink signature of Stephen Schwabauer.

Stephen Schwabauer
City Attorney

APPROVED:

A blue ink signature of Konradt Bartlam.

Konradt Bartlam, City Manager

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
LODI AMENDING LODI MUNICIPAL CODE CHAPTER 3.20 –
PURCHASING SYSTEM BY ADDING SECTION 3.20.106
“LOCAL HIRE POLICY AND APPRENTICESHIP”

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BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LODI AS FOLLOWS:

Section 1. Lodi Municipal Code Chapter 3.20 – Purchasing System is hereby amended by adding Section 3.20.106, “Local Hire Policy and Apprenticeship” to read as follows:

3.20.106 Local Hire Policy and Apprenticeship

A. Generally:

The City of Lodi suffers economically as evidenced by unemployment rates, and the Lodi City Council supports improving the economic well being of the City by increasing employment opportunities for citizens of Lodi and the surrounding communities.

The City of Lodi periodically awards construction contracts, which employ significant numbers of employees in various trades and many City and San Joaquin County residents possess the skills required of such construction efforts and are in need of employment.

B. Local Hire:

1. Bidders on construction projects shall complete a Bidder Local Hire Information Form and Checklist. The Form shall be submitted with all construction bids in excess of \$200,000, which indicates the bidder’s effort to employ local hire. A copy of the Local Hire Information Form and Checklist is attached as Exhibit A and shall be included in all bid packages with an Engineers Estimate over \$200,000. Unless this provision conflicts with a state law, federal law, regulation or funding requirement, bidders who fail to establish a good faith local hire effort shall be rejected as non-responsive.

2. In the event that two or more bids are the same and the lowest, the City shall award the contract to the bidder that made the most significant effort to employ local residents as indicated on the bidder Local Hire Information form.

C. Local Apprenticeship Program

Unless the provision would conflict with a state law, federal law, regulation or funding requirements applicable to a particular contract for a public works project, City contracts for public works in excess of \$200,000 shall contain provisions pursuant to which each contractor or subcontractor shall make a good faith effort to employ apprentices who are enrolled in and participating in a apprenticeship program serving the San Joaquin Valley and approved by the State Department of Apprenticeship Standards. This apprenticeship requirement shall apply for each apprenticable craft or trade in which the contractor employs workers in performing any of the work under the contract. A contractor shall evidence its good faith effort by complying with California Labor Code Section 1777.5 and the implementing regulations and seeking apprentices from apprenticeship programs serving San Joaquin County.

A contractor employing apprentices pursuant to this section shall employ apprentices in a ratio

consistent with the provisions of the California Labor Code.

This section shall not be construed to exempt a contractor from any otherwise applicable requirement imposed upon the contractor by federal or state law.

Section 2. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 3. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

Section 4. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

Section 5. This ordinance shall be published one time in the "Lodi News Sentinel," a daily newspaper of general circulation printed and published in the City of Lodi, and shall be in force and take effect 30 days from and after its passage and approval.

Approved this ____ day of _____, 2012.

JOANNE L. MOUNCE
Mayor

Attest:

RANDI JOHL
City Clerk

State of California
County of San Joaquin, ss.

I, Randi Johl, City Clerk of the City of Lodi, do hereby certify that Ordinance No. ____ was introduced at a regular meeting of the City Council of the City of Lodi held February 1, 2012, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held _____, 2012, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

I further certify that Ordinance No. ____ was approved and signed by the Mayor of the date of its passage and the same has been published pursuant to law.

RANDI JOHL
City Clerk

Approved as to Form:

D. STEPHEN SCHWABAUER
City Attorney

EXHIBIT A

BIDDER LOCAL HIRE INFORMATION FORM AND CHECKLIST

Bidders are required to complete and submit this Form and Checklist with their bid

Project Name:

Bidder's Name:

Address

Bid Opening Date: _____

LOCAL HIRE INFORMATION	YES	NO
Contractor agrees to attempt to employ local hire in their workforce and the workforce of their subcontractors.		
Contractor agrees to purchase at least one display ad in a newspaper of general circulation in San Joaquin County announcing job opportunities on the construction project and encouraging local residents to apply.		

Contractor intends to secure his workforce from the following sources (please describe):

**LOCAL HIRE INFORMATION CHECKLIST
CITY OF LODI**

Please check all boxes that apply:

- ☐ Placed a valid job order for existing and projected position vacancies with the local office of the State Employment Development Department, for no less than 10 consecutive calendar days.
- ☐ Placed a valid job order for existing and projected position vacancies with Worknet of San Joaquin County, for no less than 10 consecutive calendar days.
- ☐ Advertised existing and projected position vacancies, job informational meetings, job application workshops, and job interviews by posting notices which identify the position(s) to be filled, the qualifications required, and where to obtain additional information about the application process, in conspicuous local authorized public places, including but not limited to post offices and libraries.
- ☐ Conducted a job informational meeting to inform the community of employment opportunities of the contractor (may be combined with other contractors).
- ☐ Provided ongoing assistance to residents of Lodi and San Joaquin County in completing job application forms.
- ☐ Conducted a job application workshop to assist the community in applying and interviewing for jobs in the contracting industry (may be combined with other contractors).
- ☐ Conducted job interviews within Lodi and San Joaquin County.
- ☐ Advertised valid existing and projected position vacancies through the local media, such as community television network, local newspapers of general circulation, and trade papers or minority focus newspapers.
- ☐ Any other means of obtaining employees who reside within Lodi and San Joaquin County that are reasonably calculated to comply with the goals of this policy. Please describe:

Please provide supporting documentation for all boxes checked. Sign and submit form and checklist with your bid.

I declare the above information is true and accurate and submitted under penalty of perjury.

By my signature below, I acknowledge that I have met the requirements of the City's local Hire Policy.

Owner/Authorized Representative (Signature)

Name of firm

Name and Title (Print)

Construction Contract Documents Instructions to Bidders

Proposed language to be included in the Construction Contract Documents

INSTRUCTIONS TO BIDDERS

Bids: Bids, to receive consideration, shall be made in accordance with the following instructions.

Local Hire: The City of Lodi has adopted a policy goal to strongly encourage local hire and apprenticeship participation in the construction workforce in accordance with City Council policy. Bidder's attention is directed to the following provisions relating to this policy:

- a. For purposes of this policy only, the definition of contractor is limited to the total workforce of the prime or principal contractor and all subcontractors who will work in San Joaquin County under the construction contract.
- b. A "local hire" is defined as an employee whose residence is within San Joaquin County at the time of opening of bids for the project.
- c. Bidders are to complete the "Bidder Local Hire Information Form and Checklist".

With respect to application of the local hire policy, bidders attention is directed to the following:

1. The Lodi City Council hereby adopts a policy to strongly encourage, within the constraints of federal and state law, the employment of County residents on City funded construction projects.
2. Bidders on construction projects will be required to complete a Local Hire Information Form to be submitted with construction bids in excess of \$200,000, which indicates the bidder's effort to employ local hire.
3. In the event that two or more bids are the same and the lowest, the City shall award the contract in accordance with the best intended effort of the bidder to employ local residents as indicated on the bidder Local Hire Information Form.
 - a. Contracts estimated by the City to be less than \$200,000 do not have a local hire goal.
 - b. Contracts estimated by the City to cost \$200,000 or more require the successful bidder to demonstrate their attempts to employ local hire.

Apprenticeship Program:

Unless such provision would conflict with a state or federal law or regulation applicable to a particular contract for a public works project, City contracts for public works in excess of \$200,000 shall contain provisions pursuant to which each contractor or subcontractor shall make a good faith effort to employ apprentices who are enrolled in and participating in a apprenticeship program serving the San Joaquin County and approved by the State Department of Apprenticeship Standards. This apprenticeship requirement shall apply for each apprenticeship craft or trade in which the contractor employs workers in performing any of the work under the contract. A contractor may evidence its good faith effort by complying with California Labor Code Section 1777.5 and the implementing regulations and seeking

apprentices from apprenticeship programs serving the San Joaquin County.

A contractor employing apprentices pursuant to this section shall employ apprentices in a ratio consistent with the provisions of the California Labor Code or Federal requirements as applicable for federal aid contracts. This section shall not be construed to exempt a contractor from any other applicable requirement imposed upon the contractor by federal or state law.

Construction Contract Documents Instructions to Bidders

Proposed language to be included in the Notice Inviting Bids

NOTICE INVITING BIDS

The City of Lodi has adopted a policy goal to strongly encourage local hire and apprenticeship participation in the construction workforce in accordance with City Council policy.

- a. Contracts estimated by the City to be less than \$200,000 do not have a local hire goal.
- b. Contracts estimated by the City to cost \$200,000 or more require the successful bidder to demonstrate their attempts to employ local hire.